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UNCLAS SECTION 01 OF 02 TAIPEI 003198

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SUBJECT: TAIWAN SEIZES COUNTERFEIT PHARMACEUTICALS

1. SUMMARY: LOCAL PRESS REPORTED ON OCTOBER 2 THAT THE TAICHUNG PROSECUTORS' OFFICE RAIDED NINE DIFFERENT LOCATIONS IN CENTRAL AND SOUTHERN TAIWAN, SEIZING OVER 2.5 MILLION COUNTERFEIT DRUG PILLS, INCLUDING VIAGRA, REDUCTIL, AND STILNOX, AND ARRESTING FOUR SUSPECTS, INCLUDING ONE LICENSED PHARMACIST. SUBSEQUENT REPORTS FROM INDUSTRY PUT THE FIGURES AT LESS THAN ONE MILLION TABLETS TOTAL, INCLUDING 146,000 VIAGRA TABLETS. INITIAL PRESS REPORTS OF THE MARKET VALUE OF THE SEIZED COUNTERFEIT PHARMACEUTICALS ARE CLEARLY EXAGGERATED, BUT THIS SEIZURE IS STILL THE LARGEST IN TAIWAN THIS YEAR WITH A MARKET VALUE OF SEVERAL MILLION US DOLLARS. THE SUSPECTS FACE CHARGES OF VIOLATING TRADEMARK LAW AND THE NEW PHARMACEUTICAL AFFAIRS LAW. AMENDMENTS TO THE PHARMACEUTICAL LAW IN MARCH 2004 INCREASED PENALTIES FOR COUNTERFEITERS AND DISTRIBUTORS BUT THE DETERRENT VALUE OF THE NEW LAW REMAINS TO BE SEEN. END SUMMARY.

A SUCCESS, BUT NOT AS BIG AS ADVERTISED

2. AFTER RECEIVING A TIP FROM AN INFORMER IN JUNE 2004, THE MINISTRY OF JUSTICE INVESTIGATION BUREAU (MJIB) BEGAN AN INVESTIGATION OF A GROUP PRODUCING AND SELLING COUNTERFEIT PHARMACEUTICALS. ON OCTOBER 2, THE TAICHUNG PROSECUTOR'S OFFICE LED AN EIGHTY-MEMBER TASK FORCE ON RAIDS OF NINE SUSPECTED PACKAGING HOUSES, PRINTING FACTORIES, WAREHOUSES, AND DRUG STORES IN TAICHUNG, MIAOLI, AND KAOHSIUNG. LOCAL PRESS REPORTED THAT THE TASK FORCE HAD SEIZED 2.5 MILLION COUNTERFEIT PILLS, VALUED AT NT\$320 MILLION (US\$9.4 MILLION) FROM A WAREHOUSE IN TAICHUNG AND ARRESTED FOUR SUSPECTS, INCLUDING A LICENSED PHARMACIST AND A PHARMACEUTICAL DISTRIBUTOR. INDUSTRY REPRESENTATIVES WERE LATER TOLD BY INVESTIGATORS THAT THE INITIAL ESTIMATES HAD EXAGGERATED THE TOTAL AMOUNT SEIZED AND THAT THE ACTUAL FIGURE WAS LESS THAN ONE MILLION TABLETS.

MAINLAND PRODUCTION WITH TAIWAN PACKAGING?

3. INVESTIGATORS BELIEVE THE COUNTERFEITING RING WAS PRODUCING FAKE PILLS IN GUANGDONG PROVINCE AND THEN SMUGGLING THEM INTO TAIWAN BY CONTAINER OR FISHING VESSEL FOR PACKAGING AND DISTRIBUTION. THE QUALITY OF PACKAGING IS REPORTEDLY EXCELLENT, WITH EVEN INDUSTRY INSIDERS UNABLE TO READILY SPOT THE FAKES. INDUSTRY SOURCES SAY THE COUNTERFEITERS WERE USING PACKAGING RESEMBLING LOCAL TAIWAN PACKAGING AND ASIAN REGIONAL PACKAGING, PERHAPS HOPING TO PASS THEIR COUNTERFEIT PRODUCTS OFF AS PARALLEL IMPORTS.

DISTRIBUTION THROUGH DRUG STORES AND NIGHT MARKETS

4. UNLIKE SOME OTHER COUNTERFEITING GROUPS WHICH SELL PRODUCTS THROUGH MAIL ORDER OR THROUGH A WEBSITE, THIS GROUP WAS ALLEGEDLY DISTRIBUTING COUNTERFEIT MEDICINES THROUGH TRADITIONAL DRUG STORES AND VENDERS IN NIGHT MARKETS. ACCORDING TO PRESS REPORTS, THE COUNTERFEIT PHARMACEUTICALS WERE SELLING AT ABOUT A TWENTY PERCENT DISCOUNT TO THE REAL PRODUCT. WIDELY CIRCULATED REPORTS THAT THE ACTIVE INGREDIENTS IN THE COUNTERFEIT PRODUCTS WERE ONLY ABOUT THIRTY PERCENT OF THE LEGITIMATE PRODUCT WERE DENIED BY INDUSTRY AND THE MJIB.

INCREASED PENALTIES FOR PHARMA COUNTERFEITING

5. IN MARCH 2004, TAIWAN'S LEGISLATIVE YUAN AMENDED THE PHARMACEUTICAL AFFAIRS LAW TO CREATE A STIFFER PENALTY FOR PHARMACEUTICAL COUNTERFEITING AND THE DISTRIBUTION OF COUNTERFEIT DRUGS.

MANUFACTURERS AND IMPORTERS OF COUNTERFEIT PHARMACEUTICAL PRODUCTS NOW FACE THE POSSIBILITY OF A JAIL SENTENCE OF UP TO TEN YEARS (INCREASED FROM SEVEN YEARS UNDER THE PREVIOUS LAW), AND A FINE OF UP TO NT\$10 MILLION (US\$300,000), UP FROM NT\$150,000 (US\$4500). THE SALE, DISTRIBUTION STORAGE, OR DISPENSING OF COUNTERFEIT PHARMACEUTICALS WILL BE PUNISHED BY JAIL SENTENCE OF UP TO SEVEN YEARS (INCREASED FROM FIVE YEARS) AND FINE OF UP TO NT\$5 MILLION (US\$150,000). (REFTEL)

DISTRIBUTION AND ENFORCEMENT PROBLEMS

16. INDUSTRY EXPERTS BELIEVE COUNTERFEIT OR PARALLEL IMPORTED MEDICINES MAY ACCOUNT FOR UP TO TWENTY-FIVE PERCENT OF TAIWAN'S PHARMACEUTICAL SALES. ONE EXPERT SUGGESTED THAT TAIWAN'S COUNTERFEIT PHARMACEUTICAL PROBLEM IS PARTLY THE RESULT OF A POORLY REGULATED DISTRIBUTION SYSTEM. PHARMACIES REPORTEDLY OFTEN PURCHASE MEDICINES FROM UNKNOWN WHOLESALERS OR SALESMEN WITHOUT REVIEWING THEIR BONA FIDES. IN ADDITION TO A DISTRIBUTION SYSTEM THAT ENCOURAGES SALES OF COUNTERFEIT PRODUCTS, CONFUSION OVER WHICH AGENCY SHOULD BE RESPONSIBLE FOR ENFORCEMENT OF TAIWAN'S ANTI-COUNTERFEITING LAWS CONTRIBUTES TO THE PREVALENCE OF BOGUS MEDICINES. THE DEPARTMENT OF HEALTH (DOH) AND LOCAL HEALTH BRANCHES, NOT THE TAIWAN INTELLECTUAL PROPERTY OFFICE (TIPO) OR MJIB, ARE CHARGED WITH ENFORCEMENT OF THE PHARMACEUTICAL LAW. HOWEVER, THESE HEALTH ORGANIZATIONS LACK THE WILL AND THE ENFORCEMENT CAPABILITY NECESSARY TO CRACK DOWN ON PHARMACEUTICAL COUNTERFEITING.

POSITIVE COOPERATION, BUT STILL WAITING ON RESULTS

17. COMMENT: RESEARCH PHARMACEUTICAL MANUFACTURERS TELL US THEY ARE PLEASED WITH THE COOPERATION WITH THE MJIB THAT LED TO THESE RAIDS AND THE RESULTING SEIZURES AND ARRESTS. HOWEVER, THEY CAUTION THAT ADDITIONAL INVESTIGATION MUST BE COMPLETED, ESPECIALLY REGARDING THE UNDERGROUND PRINTING OPERATIONS, BEFORE THEY CAN DECLARE THIS AN UNMITIGATED SUCCESS. RAIDS BY MJIB IN JULY OF PHARMACIES STOCKING COUNTERFEIT PHARMACEUTICALS ALSO LED TO SEVERAL ARRESTS, BUT INDICTMENTS ARE STILL PENDING. THIS CASE WILL PROVIDE ANOTHER TEST OF THE ABILITY OF THE NEW PHARMACEUTICAL LAW TO DETER COUNTERFEITING AND DISCOURAGE RETAILERS FROM STOCKING FAKE AND POTENTIALLY DANGEROUS PRODUCTS. END COMMENT.

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